HB 743

Department of Legislative Services

Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 743 (Delegate Lierman)(Chair, Joint Committee on Pensions)
Appropriations Budget and Taxation

Teachers' Retirement and Pension Systems - Reemployment

This bill allows, from July 1, 2022, through June 30, 2024, a local school superintendent or the Maryland School for the Deaf (MSD) to hire up to 25 retirees of each of the Teachers' Retirement System (TRS) and the Teachers' Pension System (TPS) – as classroom teachers, substitute classroom teachers, teacher mentors, or principals – without the retirees being subject to an earnings limitation. **The bill takes effect June 1, 2022, and terminates June 30, 2024.**

Fiscal Summary

State Effect: State pension liabilities may increase minimally to the extent that some current TPS members retire earlier than they planned, as discussed below. Any resulting increase in State general fund pension contributions beginning in FY 2024 is expected to be negligible. Revenues are not affected.

Local Effect: Local pension contributions may *decrease* minimally beginning in FY 2024, as discussed below. Any such minimal savings are shared by 24 local school systems in proportion to their share of TRS/TPS active membership. No effect on revenues.

Small Business Effect: None.

Analysis

Current Law: In general, a retiree who receives a retirement benefit from the State Retirement and Pension System (SRPS) may be reemployed, except that the retiree may not be reemployed by the State or any participating SRPS employer within 45 days of retiring. In most cases, a retiree who is rehired by the same employer for whom the retiree worked at the time of retirement is subject to an earnings cap. The purpose of the cap, which is the member's average final compensation (AFC) at the time of retirement, is to ensure that a retiree does not earn more in retirement than the retiree earned as an active member with the same employer. If the sum of a retiree's earnings and initial retirement allowance exceeds the earnings cap, the retiree is subject to a dollar-for-dollar offset of the retirement benefit for any amount that exceeds the cap. For a member who retires directly from State service, the State is regarded as a single employer, so reemployment with any State agency activates the benefit reduction.

Broad Exemptions from Earnings Limitation

Statute includes several broad exemptions from the offset, including for retirees who:

- have been retired for at least five years;
- retired with an AFC less than $25,000 and are reemployed on a permanent, temporary, or contractual basis; or
- are serving in any specified elected position.

Exemption for Teachers' Retirement System/Teachers' Pension System Retirees

TRS/TPS retirees who are rehired by their former employer on a contractual basis do not have their pension benefit reduced if they are reemployed as a classroom teacher, substitute classroom teacher, teacher mentor, or principal in MSD or in a public school that:

- is a school in need of improvement as defined by the federal Elementary and Secondary Education Act (ESEA);
- is receiving funds under Title I of ESEA;
- has more than 50% of its students eligible for the federal free or reduced-price meals program; or
- provides an alternative education program for adjudicated youth or students who have been suspended, expelled, or identified for suspension from a public school.

The rehired individual also has to teach:

- in an area of critical shortage, as identified by the Maryland State Department of Education (MSDE);
- special education; or
- a class for students with limited English proficiency.

Each local school superintendent and MSD may also hire a total of five TRS/TPS retirees to work in any position at any public school and be exempt from any retirement benefit reduction.

Teacher Pension Cost Sharing

The State and local school systems each pay a share of the employer contribution for TRS/TPS pensions. Local school systems pay the normal cost, which is the portion of the employer contribution attributable to accrued benefits earned in the current year. The State pays the amortization payment, which is the portion of the contribution attributable to the amortization of unfunded past liabilities.

State Expenditures: The exemptions from the earnings limitation in current law enable TRS/TPS members to increase their earnings by retiring and then returning to work, thereby receiving both a retirement benefit and a full salary. In some cases, members who retire and return to an exempt position can increase their total earnings by as much as 50%. However, the existing exemptions for TRS/TPS retirees who are rehired by their previous employers are limited in scope and have, thus, severely restricted the number of retirees who are rehired without an earnings limitation. Data on the number of rehired retirees is not consistently available, but data from three recent school years confirms that the number of rehired TRS/TPS retirees who are exempt from the earnings limitation under current law is small. MSDE reports that school systems hired 14 exempt retirees in school year 2013-2014 and 23 exempt retirees in school year 2015-2016. The State Retirement Agency advises that school systems hired 25 exempt retirees during calendar 2020. Accordingly, current law does not incentivize many TRS/TPS members to retire early so they can be rehired without an earnings limitation.

The following discussion addresses only active TPS members; TRS was closed to new members in 1980 and has fewer than 150 active members employed by local school systems.

The bill may create such an incentive for as many as 625 active TPS members (25 in each of 24 local school systems and MSD) in each of fiscal 2023 and 2024 by eliminating any restrictions on the type of TRS/TPS retirees who can be rehired. However, the bill also applies to the more than 70,000 current retirees in both TRS and TPS who can be rehired under the bill. Thus, although any active TPS member who is eligible to retire as of the bill's effective date has an obvious financial incentive to retire and then return to his or her previous job with a full salary and retirement benefit, the bill's cap of 25 TPS rehires per school system and the availability of many existing qualified retirees means there is no guarantee that an active member who retires early will be rehired by the same employer.

Increased retirement rates cause pension liabilities to increase because retirees are paid benefits for more years than they otherwise would be paid. However, several factors combine to likely limit the number of current active TPS members who may retire earlier than they planned under the bill. First, the bill is in effect for only two years, so only active members who are eligible to retire in the next two years are affected. Second, the overall limit of 625 TPS rehires each year limits the availability of positions that can be filled with rehired retirees. Finally, the availability of a pool of more than 70,000 current retirees, all of whom also have a financial incentive to be rehired for up to two years, creates uncertainty for current active members who may seek to retire early and be rehired. Based on these limiting factors, any increase in retirement rates among active TPS members is likely minimal and is unlikely to have a meaningful effect on State pension liabilities and contribution rates.

Local Expenditures: To the extent that retirement rates among active TPS members increase, the normal cost decreases beginning in fiscal 2024. Under normal circumstances, a retiree would be replaced by a new active member earning service credit, thereby maintaining the normal cost. However, this analysis assumes that any active member who retires is then rehired; as they are not eligible to earn additional service credit, they do not contribute to the normal cost, which decreases as a result. Given the assumption above that only a small number of active members retire and then are rehired under the bill, any such effect on the normal cost is likely minimal.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 410 (Senator Elfreth)(Chair, Joint Committee on Pensions) - Budget and Taxation.

Information Source(s): Bolton; Maryland State Department of Education; Maryland School for the Deaf; Department of Budget and Management; State Retirement Agency; Anne Arundel County Public Schools; Prince George’s County Public Schools; Department of Legislative Services

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